

to be understood by a beneficiary and must include—

(1) The specific reasons for the determination, including, to the extent appropriate, a summary of any clinical or scientific evidence used in making the determination;

(2) The procedures for obtaining additional information concerning the decision; and

(3) Notification of the right to appeal the decision to the MAC, including instructions on how to initiate an appeal under this section.

(c) *Limitation on decision.* When the amount of payment for an item or service is an issue before the ALJ, the ALJ may make a finding as to the amount of payment due. If the ALJ makes a finding concerning payment when the amount of payment was not an issue before the ALJ, the contractor may independently determine the payment amount. In either of the aforementioned situations, an ALJ's decision is not final for purposes of determining the amount of payment due. The amount of payment determined by the contractor in effectuating the ALJ's decision is a new initial determination under § 405.924.

(d) *Timing of decision.* The ALJ issues a decision by the end of the 90-day period beginning on the date when the request for hearing is received by the entity specified in the QIC's reconsideration, unless the 90-day period is extended as provided in § 405.1016.

(e) *Recommended decision.* An ALJ issues a recommended decision if he or she is directed to do so in the MAC's remand order. An ALJ may not issue a recommended decision on his or her own motion. The ALJ mails a copy of the recommended decision to all the parties at their last known address.

[70 FR 11472, Mar. 8, 2005, as amended at 70 FR 37704, June 30, 2005]

#### **§ 405.1048 The effect of an ALJ's decision.**

The decision of the ALJ is binding on all parties to the hearing unless—

(a) A party to the hearing requests a review of the decision by the MAC within the stated time period or the MAC reviews the decision issued by an ALJ under the procedures set forth in § 405.1110, and the MAC either issues a

final action or the appeal is escalated to Federal district court under the provisions at § 405.1132 and the Federal district court issues a decision.

(b) The decision is reopened and revised by an ALJ or the MAC under the procedures explained in § 405.980;

(c) The expedited access to judicial review process at § 405.990 is used;

(d) The ALJ's decision is a recommended decision directed to the MAC and the MAC issues a decision; or

(e) In a case remanded by a Federal district court, the MAC assumes jurisdiction under the procedures in § 405.1138 and the MAC issues a decision.

#### **§ 405.1050 Removal of a hearing request from an ALJ to the MAC.**

If a request for hearing is pending before an ALJ, the MAC may assume responsibility for holding a hearing by requesting that the ALJ send the hearing request to it. If the MAC holds a hearing, it conducts the hearing according to the rules for hearings before an ALJ. Notice is mailed to all parties at their last known address informing them that the MAC has assumed responsibility for the case.

#### **§ 405.1052 Dismissal of a request for a hearing before an ALJ.**

Dismissal of a request for a hearing is in accordance with the following:

(a) An ALJ dismisses a request for a hearing under any of the following conditions:

(1) At any time before notice of the hearing decision is mailed, if only one party requested the hearing and that party asks to withdraw the request. This request may be submitted in writing to the ALJ or made orally at the hearing. The request for withdrawal must include a clear statement that the appellant is withdrawing the request for hearing and does not intend to further proceed with the appeal. If an attorney, or other legal professional on behalf of a beneficiary or other appellant files the request for withdrawal, the ALJ may presume that the representative has advised the appellant of the consequences of the withdrawal and dismissal.